

Exhibit E



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

April 17, 2018

VIA E-MAIL

Mr. Andrew Grossman
Baker Hostetler
Washington Square
1050 Connecticut Ave, N.W, Suite 1100
Washington, DC 20036-5304
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RE: ***Freedom of Information Act (FOIA) Request No. FP-18-00014***

Mr. Grossman,

Thank you for our discussion on April 11th. I am glad that you found it productive. While USPTO is not obligated to provide further information concerning our fee estimate, we acknowledge the exceptional nature of your request and are willing to share certain information concerning our methodology. I trust that this information will be sufficient to permit you and your client to determine how you wish to proceed.

The USPTO Office of the Chief Information Office (OCIO) was able to do an initial count of all the available emails maintained by employees and supervisors in Art Unit 2615 going back to January 1, 2012. I use the word "initial," because this number does not include any emails that may have been saved in locations accessible only by individual custodians (though we expect these to be rare). The OCIO's preliminary review yielded approximately 650,000 emails and 76,828 attachments. Based on a sample review of emails and attachments, we estimate the number of email pages is roughly 1 million and the number of attachment pages is roughly 48 million.

As we discussed on the phone call, the search time for this request was small because we used our OCIO to do conduct electronic surveys of the emails in Art Unit 2615 encompassing all personnel from the dates of January 1, 2012 to March 1, 2018. For your information, it did take several hours for OCIO to conduct its search, but that time was not included in the estimate provided to you.

Estimated search fees came to \$3,435. The agency did not include any estimated duplication costs. Estimated review fees for emails (not including attachments) came to \$918,187. Estimated review fees for attachments came to \$2,108,160. As we discussed, the estimated page count for attachments responsive to this request is particularly high because of the subject matter

you are requesting. A typical attachment may contain a draft office action of 800-1000 pages. As you can see, the USPTO FOIA Office already took into account the likely efficiencies of reviewing lengthy attachments (i.e., the per page review cost for attachment pages is far less than it is for email pages.

You specifically asked whether you would be able to tell from produced email records whether they originally included attachments. The answer is yes, the USPTO uses Microsoft Outlook, and it identifies whether an attachment was included in the most recent email in a chain. Please note that to the extent you wish to limit your search by excluding attachments, be aware that there may still be some review costs associated with identifying and excluding these records because we cannot separate them with automation tools.

You had also specifically asked whether the fee estimate applied any de-duplication technology. The answer is no. The USPTO FOIA Office does have access to a basic eDiscovery program that has a de-duplication function, and we would intend to use that program when processing your request (obviously, the automatic removal of duplicate messages is only as powerful as the functionality of the program). However, we have no way of knowing how many records constitute duplicates until they are collected and uploaded into the program. This collection and upload constitutes a significant outlay of time in itself, and so is not something we can estimate in advance or without some quality control review.

As stated in our March 13, 2018 fee estimate for request no. FP-18-00014, we note again that these numbers are only estimates, and do not necessarily represent a final cost.

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At this juncture, we ask that you either proceed with payment or provide a meaningful description of how you wish to limit the scope of your request no later than **April 27, 2018**. Otherwise, request no. FP-18-00014 will be considered withdrawn and closed.

Sincerely,



Louis J. Boston Jr.
USPTO FOIA Officer
Office of General Law